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Docket No. SUN-DA-138T
Serial No. 10/757,821Remarks

Claims 1-3 are pending in the subject application. By this Amendment, paragraph [0018] of the specification is amended to add reference numbers to the text, and claim 1 has been amended to add the element of a plurality of gates formed on the equally spaced active regions of the second pattern, which gates do not contact the first pattern. Support is found, for example, at Figure 1. No new matter is added by these amendments. Upon entry of this amendment, claims 1-3 will be before the Examiner. Favorable consideration of the pending claims is respectfully requested.

The objection to the drawings for including the reference numbers 20 and 40 has been obviated by the above amendment to the specification. No new matter has been introduced by this amendment. Applicant appreciates Examiner's careful reading of the subject application.

Claims 1 and 2 are rejected under 35 U.S.C. §103(a) as being unpatentable over Chang *et al.* (U.S. Patent No. 6,350,994) in view of Goto *et al.* (U.S. Pat. App. No. 2002/0105041). Applicant respectfully traverses. A *prima facie* case of obviousness has not been presented. Three criteria must be met to establish *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success. Finally, the prior art reference, or combination of references, must teach or suggest all the claim limitations.

As discussed in the subject specification at paragraph [0006] and the Action at pages 5-6, Chang *et al.* teaches photomask patterns having the same pattern width and not a pattern including a plurality of unequally spaced active regions as specified in subject claim 1. Goto does not cure this deficiency because it is not properly combinable with Chang, *et al.* Goto teaches an integrated circuit device and not a method of making a monitoring pattern of a shallow trench isolation profile. Just because Goto has an unequally spaced active region does not mean that there is motivation to add such to Chang, *et al.* Thus, although Goto teaches forming active regions for various processing circuits, it does not teach or suggest a plurality of unequally spaced active regions on a substrate as specified in subject claim 1.

Further, claim 1 contains the added element of gates formed on the second pattern that do not contact the unequally spaced active regions of the first pattern. Thus the equally spaced active regions of the second pattern can be source/drain, but the active regions of the first pattern cannot. In

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contrast, Goto's unequally spaced active region is a source/drain, and there is no suggestion or motivation to change that characteristic. Accordingly, even if one combined Chang and Goto, one would not arrive at the invention as now claimed.

Accordingly, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of claims 1 and 2.

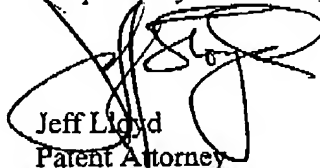
Claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable over Chang *et al.* (U.S. Patent No. 6,350,994) in view of Goto *et al.* (U.S. Pat. App. No. 2002/0105041), and further in view of Brill *et al.* (U.S. Patent No. 6,650,424). Applicant respectfully traverses. The deficiencies of Chang *et al.* in view of Goto *et al.* have been discussed above with respect to the rejection of claim 1, from which claim 3 depends. Brill *et al.* does not cure those defects. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the §103(a) rejection of claim 3.

In view of the foregoing remarks and amendment to the claims, Applicant believes that the claims as currently pending are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account 19-0065.

The Applicant invites the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



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